BEFORE THE APPEALS BOARD FOR THE KANSAS DIVISION OF WORKERS COMPENSATION

DAVID WAYNE MOORE	}
Claimant VS.)) Dealest No. 172 177
CENTURY CONCRETE, INC. Respondent AND) Docket No. 172,177))
SELF INSURED Insurance Carrier	

ORDER

Respondent appeals from an Order entered by Administrative Law Judge Alvin E. Witwer on February 3, 1995, appointing Ronald Zipper, D.O., to perform an independent medical examination of claimant.

ISSUES

Respondent raised the following single issue:

(1) The Administrative Law Judge exceeded his jurisdiction when he appointed Dr. Zipper as the independent health care provider to examine the claimant and issue an opinion regarding claimant's functional impairment.

However, the initial issue that the Appeals Board will address is whether it has jurisdiction to review the above stated issue at this juncture of the proceeding.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record and considering the briefs of the parties, the Appeals Board finds, for reasons stated below, that it does not have jurisdiction to review the above issue raised by the respondent. Therefore, the Order of the Administrative Law Judge dated February 3, 1995, remains in full force and effect.

The respondent and the claimant, at the prehearing settlement conference, were unable to agree on the issue of claimant's functional impairment. Accordingly, pursuant to K.S.A. 44-510e(a), the Administrative Law Judge appointed Ronald Zipper, D.O., an orthopedic surgeon, to examine the claimant and issue an opinion regarding claimant's functional impairment.

Respondent appeals from this Order, questioning Dr. Zipper's qualifications as a physician and alleging that Dr. Zipper is not neutral as he is unable to issue an impartial opinion in this matter.

The Order that is the subject of this appeal is an interlocutory order made during the trial of this case. It is neither a final order that can be reviewed by the Appeals Board pursuant to K.S.A. 44-551(b)(1), as amended by S.B. 59, nor does it raise a jurisdictional issue that can be reviewed pursuant to K.S.A. 44-534a(a)(2). This is simply an interlocutory order that the Administrative Law Judge has the authority to make during the trial of a workers compensation case.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Application for Review filed by the respondent is dismissed as the Appeals Board lacks jurisdiction to review the Order of Administrative Law Judge Alvin E. Witwer appointing Ronald Zipper, D.O., to examine the claimant pursuant to K.S.A. 44-510e(a).

Dated this day of Ap	oril, 1995.
	BOARD MEMBER
	BOARD MEMBER
	BOARD MEMBER

c: D. Scott Brown, Kansas City, KS Frederick J. Greenbaum, Kansas City, KS Alvin E. Witwer, Administrative Law Judge George Gomez, Director

IT IS SO ORDERED.